

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CIVIL NO.: 04-331E
	)	
vs.	)	
	)	
JAMES W. CRUM, JR. and	)	
JOANNE M. CRUM,	)	
	)	
Defendants.	)	
	)	

**MOTION FOR SPECIAL ORDER OF SERVICE OF SUMMONS AND COMPLAINT  
UPON DEFENDANT, JAMES W. CRUM, JR., ONLY, AND FOR ENLARGEMENT OF  
TIME TO EFFECT SERVICE**

AND NOW comes the United States of America by its attorneys Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and McGrath & Associates, P.C., and respectfully moves the Court for a Special Order of Service of Summons and Complaint and Enlargement of Time to Effect Service and in support thereof respectfully avers as follows:

1. On November 12, 2004, Plaintiff instituted this proceeding against the above-named Defendants requesting a judgment in mortgage foreclosure, and a deficiency judgment after deduction of monies realized from the mortgage foreclosure.

2. On November 9, 2004, Plaintiff conducted an Accurant on-line Internet search for the current address of Defendant, James W. Crum, Jr. The most recent address listed for Defendant was RR 2 Box 196, Eldred, PA 16731-9202 (which is also the address of the mortgaged property.) A copy of the Accurant on-line search is attached hereto as **Exhibit "A"** and incorporated herein by reference.

3. Based on the foregoing information, on November 15, 2004, Plaintiff mailed the Complaint and Notice of Lawsuit and Request for Waiver of Service of Summons to Defendant, James W. Crum, Jr., at RR #2, Box 196, Eldred, PA 16731 and 62 Rinaman Road, Eldred, PA 16731. However, Plaintiff never received an executed Waiver of Service of Summons.

4. On November 16, 2004, the Eldred Postmaster verified that Defendant receives mail at 62 Rinaman Road, Eldred, PA 16731. A copy of the Address Verification from the Eldred Postmaster is attached hereto as **Exhibit "B"** and incorporated herein by reference.

5. On March 24, 2005, Plaintiff filed a Motion of Enlargement of Time to Effectuate Service on Defendant, James W. Crum, Jr., Only, requesting additional time to serve Defendant with the Summons and Complaint.

6. On March 28, 2005, the Court granted the Motion enlarging the time to serve Defendant with the Summons and Complaint to June 27, 2005.

7. Plaintiff then requested that the U.S. Marshal served Defendant, James W. Crum, Jr., with the Summons and Complaint at 62 Rinaman Road, Eldred, PA 16731.

8. On or about June 28, 2005, Plaintiff received a Process Receipt and Return form from the Marshal indicating that the Marshal was unable to serve the Defendant stating that "I attempted personal service at his home. He or his wife were (I believe) at home and would not answer. Both cars were in the drive also. I left all the pertinent documents in the front door." A copy of the Marshal's Process Receipt and Return form is attached hereto as **Exhibit "C"** and incorporated herein by reference.

9. Plaintiff believes that Defendant, James W. Crum, Jr., receives mail at RR #2, Box 196, Eldred, PA 16731 and resides at 62 Rinaman Road, Eldred, PA 16731 as evidenced by the Accruint on-line Internet search and Postal Service Address Verification.

10. Federal Rule of Civil Procedure 4(e)(1) permits alternative service pursuant to state law.

11. Pennsylvania Rule of Civil Procedure 430(a) permits a party to seek a special order of court for alternative service.

12. Rule 410 of the Pennsylvania Rules of Civil Procedure, entitled "Real Property Action" states that:

(c) If service is made pursuant to an order of court under Rule 430(a), the court shall direct one or more of the following methods of service:

- (1) publication as provided by Rule 430(b),
- (2) posting a copy of the original process on the most public part of the property,
- (3) registered mail to the Defendant's last known address, and
- (4) such other methods, if any, as the court deems appropriate to give notice to the Defendant.

13. In light of the foregoing, Plaintiff requests that this Honorable Court authorize service of the Complaint and Summons and any additional document or pleading requiring service in the manner prescribed by Pa. R.C.P. 402(a) by sending a copy of the document or pleading via First Class U.S. Mail, Postage Prepaid, Certificate of Mailing and Certified Mail, Return Receipt Requested to RR #2, Box 196, Eldred, PA 16731 and 62 Rinaman Road, Eldred, PA 16731 with service to be deemed valid and complete upon mailing.

14. Plaintiff believes that, under the facts as set forth above, it has acted diligently in attempting to serve Defendant, James W. Crum, Jr., and that additional time should be granted by this Court in order to complete service of process.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court authorize service of the Summons and Complaint and any additional document or pleading requiring service in the manner prescribed by Pa. R.C.P. 402(a) by sending a copy of the document or pleading via First Class U.S. Mail, Postage Prepaid, Certificate of Mailing and Certified Mail, Return Receipt Requested to RR #2, Box 196, Eldred, PA 16731 and 62 Rinaman Road, Eldred, PA 16731 with service to be deemed valid and complete upon mailing. Additionally, Plaintiff requests that it be granted a sixty (60) day enlargement of time to serve Defendant, James W. Crum, Jr., with the Summons and Complaint.

Respectfully submitted,

MARY BETH BUCHANAN  
United States Attorney

By: 

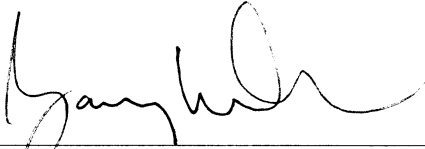
Gary W. Darr Esquire  
PA I.D. No. 90857  
McGrath & Associates, P.C.  
1500 Union Bank Building  
306 Fourth Avenue  
Pittsburgh, Pennsylvania 15222  
Firm Number 025  
Telephone 412-281-4333  
Facsimile 412-281-2141  
Counsel for Plaintiff,  
The United States of America

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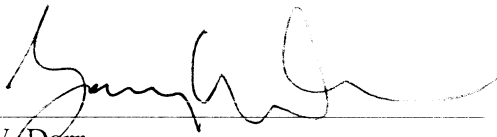
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Defendants.	)	
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AFFIDAVIT

AND NOW comes Gary W. Darr, attorney for Plaintiff, who hereby deposes and says that the averments contained in the foregoing Motion are true and correct, to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Gary W. Darr

I hereby declare, under penalty of perjury, that the foregoing is true and correct. Executed on  
July 11, 2005.

  
\_\_\_\_\_  
Gary W. Darr